

The Electronic Logging Device (ELD) Controversy

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In December 2017, after years of preparation, most commercial trucks were required to be equipped with an electronic logging device (ELD) that would automatically record how long the driver had been driving. There had been little controversy about this requirement during its two-year phase-in period, but after it took effect, portions of the commercial trucking industry began to complain about its impact. Pending legislation would exempt certain drivers from the mandate through FY2019.

Most commercial drivers are paid by the mile, and so have an incentive to drive as much as possible. Studies indicate that drivers become less alert and responsive to changing conditions, and thus likelier to be involved in a crash, the more hours they drive in a day. To reduce the risk of driving while fatigued, the federal government has long limited the amount of time a commercial driver can drive in a day and over the course of a week. This Hours of Service (HOS) rule limits commercial truck drivers to 11 hours of driving within a period of 14 consecutive hours spent on-duty (after which the driver must have 10 hours off before returning to duty), and up to 60 hours of driving over the course of a week. The daily driving limit for truck drivers was raised from 10 to 11 hours in 2003 (but remains 10 hours for commercial bus drivers).

For decades, the Hours of Service limits were enforced by having drivers fill in paper logs with the amount of time they spent driving each day. Given the incentives to exceed the daily limit on driving hours, and the ease of falsifying such information in paper logs drivers themselves maintained, enforcing the HOS rule was difficult. In anonymous surveys, a majority of commercial drivers admitted to violating the HOS rule at least occasionally. The National Transportation Safety Board and other safety advocates had long called for using an automated method of recording driving time to better enforce the HOS rule. In 2012 Congress mandated that trucks be equipped with ELDs, and in 2015 the Department of Transportation finalized a rule to that effect.

Since the rule went into effect, certain sectors of the commercial trucking industry have complained that the new ELD mandate is causing problems. Perhaps the largest source of objection has been the agricultural trucking sector, particularly livestock haulers. Complaints typically point out that agricultural products are perishable, and that limits on the amount of time a driver can drive in a day can create situations in which cargo is put at risk. In hot conditions, having to stop short of a final destination when a driver runs out of driving time can put livestock at risk from heat or from having to be unloaded and

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reloaded. This can sometimes happen due to factors over which drivers have little or no control, particularly the amount of time spent waiting for a truck to be loaded or unloaded and traffic congestion.

Although these complaints have arisen in the wake of the ELD mandate, the concerns pertain to the HOS rule, which was not changed by the ELD mandate. The installation of an electronic logging device merely makes it easier for federal and state inspectors to enforce the long-established HOS rule.

Existing law provides agricultural truckers with [exemptions from the HOS rules](#) for certain circumstances. For example, when operating within 150 air miles of their origin point, drivers hauling agricultural products are exempt from the HOS rule, meaning there is no limit on how long they can drive in a day. Should they leave that 150 air-mile radius zone, they then become subject to the HOS rule, but the amount of time they spent driving within the 150 air-mile radius zone does not count against their daily driving limit.

Drivers of trucks carrying agricultural products are still allowed to record their driving time in paper logs as long as they do not drive outside the 150 air-mile zone more than eight times in a 30-day period. If they drive outside the zone more often than that, they are required to use an ELD.

Federal Motor Carrier Safety Administration officials note that many drivers have been unaware of these exemptions, and once informed of them their concerns about complying with the HOS and ELD rules have been greatly reduced. Congress also temporarily exempted livestock haulers from the ELD mandate through September 30, 2018. The FY2019 transportation appropriations bills passed by the Senate (Division D, Title I of H.R. 6147) and pending in the House (H.R. 6072) would extend this exemption through September 2019.

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